



# CITY COUNCIL

## AGENDA REQUEST

AGENDA OF:	05-25-10	AGENDA REQUEST NO:	III-F
INITIATED BY:	JIM CALLAWAY EXECUTIVE DIRECTOR	RESPONSIBLE DEPARTMENT:	COMMUNITY DEVELOPMENT
PRESENTED BY:	JIM CALLAWAY EXECUTIVE DIRECTOR	DEPARTMENT HEAD:	JIM CALLAWAY EXECUTIVE DIRECTOR
		ADDITIONAL DEPARTMENT HEAD (S):	N/A
SUBJECT / PROCEEDING:	REVIEW AND DISCUSS FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT No. 128 (RIVERSTONE) STRATEGIC PARTNERSHIP AGREEMENT AND ASSOCIATED AGREEMENTS		
EXHIBITS:	STRATEGIC PARTNERSHIP AGREEMENT AND EXHIBIT FIRE PROTECTION SERVICES AGREEMENT AVAILABLE IN THE CITY COUNCIL OFFICE		
CLEARANCES		APPROVAL	
LEGAL:	N/A	EXECUTIVE DIRECTOR:	JIM CALLAWAY
PURCHASING:	N/A	ASST. CITY MANAGER:	N/A
BUDGET:	N/A	CITY MANAGER:	ALLEN BOGARD
BUDGET			
EXPENDITURE REQUIRED: \$		N/A	
CURRENT BUDGET: \$		N/A	
ADDITIONAL FUNDING: \$		N/A	
RECOMMENDED ACTION			
Receive overview of previously approved standard form Strategic Partnership Agreement (SPA) for FBC MUD No. 128 and related service contracts; provide any appropriate policy direction prior to initiation of SPA adoption process.			

## EXECUTIVE SUMMARY

### Background/History

City Council approved the Riverstone Development Agreement in February 2003. The Development Agreement included Exhibit Strategic Partnership Agreement (SPA) and Fire Protection Services Agreement contracts. At the same time, Council approved the SPA and Protection Services Agreement for Riverstone Municipal Utility Districts as a separate agenda item.

The Riverstone Development Agreement provides for no fewer than three, and no more than four, municipal utility districts to serve the development. One Riverstone district, Fort Bend County Municipal Utility District No. 128 (MUD 128) is currently active. Finalizing the SPA with this District requires statutory process and additional City Council action.

The City is currently providing utility services to MUD 128 under the terms of the previously executed Utility Agreement. The City is also providing fire services to the District under the terms of the Development Agreement. Pursuant to the Development Agreement, the Developer is paying monthly fire protection fees.

### Contract Summaries

The 2003 Riverstone SPA terms include:

- The City will provide water and waste water services to the District pursuant to the Regional Utilities Contract (previously approved and executed).
- The City will provide fire services to the District pursuant to the Fire Service Agreement (previously approved, execution pending SPA approval).
- Annexation
  - The City of Sugar Land may annex the District either:
    - After development of District is 90% complete and the landowner is reimbursed to the maximum extent allowed by TCEQ rules; or,
    - At any time provided the City assumes District obligations to reimburse the landowner.
  - After Annexation –
    - If only a portion of the District is annexed, the District will continue to provide service to the annexed land and will receive a rebate of a portion of the City taxes on the annexed tract(s).
    - If the entire District is annexed, the City will provide services and the District will exist only to design, construct and finance water, sewer and drainage services in the district. (Becomes an in-City MUD)
- Dissolution or Continuance of District
  - At the City's sole discretion, the District may be dissolved:
    - 120 days after annexation; or,
    - The District may continue as a Limited District for the purpose of financing water, waste water and/or drainage facilities up to ten years after annexation.
      - City may extend the District for an additional ten years by renewing the SPA.
      - If the District continues as a Limited District, City will rebate the portion of City ad valorem tax dedicated to water, waste water and drainage debt.

The Fire Protection Services Agreement approved in 2003 is consistent with other Fire Protection Services Agreements of that period. The Agreement terms include:

- The City will provide fire suppression services to the District for a monthly fee of \$9.62 per Equivalent

Single Family Connection per month.

- The monthly fire protection fee will be adjusted annually, with adjustments indexed to the annual CPI increase. (The adjusted 2010 fee is \$11.47)
- Other fire protection fee adjustments include:
  - Adjustments may be made based on the cost of operating a future fire station within the District;
  - Adjustments may be made anytime the City demonstrates that the monthly fees received in each fiscal year from the Participating Districts are less than the City's annual actual cost of providing fire services to the District; and/or,
  - The City may adjust the fee by adopting an ordinance establishing a rate for all ETJ districts.
- The District will provide a fire station site, finance and pay operating costs of a fire station in the District
  - The Agreement establishes thresholds and trigger points for fire station construction.

#### Relation to Council Policy for ETJ District Services and Annexation

In July 2004, subsequent to approving the Riverstone agreements, City Council adopted a municipal services and annexation policy for ETJ districts. The policy calls for pricing municipal services to ETJ districts a full cost of service plus an additional surcharge for out-of-city services. The policy applies to new service agreements. The policy also applies to renewals and extensions of ETJ service agreements.

The MUD 128 Fire Protection Services Agreement monthly fee is based on the estimated *direct* cost of fire service calls to the District rather than the *full* cost (direct + indirect costs) of service.

Additionally, the 2003 agreement included the following provision:

“Sec. 3(b) This Agreement will be in full force and effect upon and the Effective Date will be the first day of the month following the adoption of an order of all of the Participating Districts declaring the results of the elections, but only if all the Participating Districts' elections are in favor of a fire plan, the approval of the Agreements and the use of funds to pay for the Facilities is approved by the TCEQ, and each of the Participating Districts declare the results thereof on or before January 1, 2004.”

The fire plan election process was not completed on or before January 1, 2004. However, we believe it is appropriate to continue the fee structure per the original agreement. Future fee changes can be address through the Fire Protection Service Agreement contract provisions. Additionally, the District modified the 2003 SPA, including simplified annexation procedures favorable to the City. Simplified annexation procedures, combined with provisions for continuing the District after annexation, provide an additional method for addressing future fire service fees.

#### Pending SPA Process

Council must hold two public hearings prior to finalizing the MUD 128 SPA. Public notice must precede the hearings. We propose to schedule the two mandatory hearings in July of this year. Council consideration and action on the SPA will follow.

After approval and execution of the SPA, the previously approved Fire Protection Services Agreement can be executed.

#### Next Step

Unless Council directs otherwise, staff plans to bring the 2003 SPA, with modified annexation procedures, to

Council for hearings and adoption. The previously approved 2003 Fire Protection Services Agreement will be executed after the SPA is adopted.

#### EXHIBITS

Hardcopy available in City Council Office